

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**BENCH AT AURANGABAD**

**WRIT PETITION NO. 7178 OF 2016**

Onkar Hiranman Mahajan,  
Age : 58 years, Occu. Service,  
R/o : Krupa Drushti,  
25, Shradha Colony, Jalgaon,  
Tq. and Dist. Jalgaon

**PETITIONER**

**VERSUS**

1. The State of Maharashtra,  
Through its Principal Secretary,  
Higher and Technical Education  
Department, Mantralaya,  
Mumbai
2. The Director of Higher Education,  
Maharashtra State,  
Central Building Pune,  
District Pune
3. The Joint Director of Higher Education,  
1<sup>st</sup> Floor, Maharashtra Jeevan  
Pradhikaran Building, Jalgaon,  
District Jalgaon
4. KCE Society's Moolji Jaitha College,  
Jalgaon, Tq. and Dist. Jalgaon,  
Through its Principal

**RESPONDENTS**

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Mr. V.B. Patil, Advocate for the petitioner  
Mr. A.V. Deshmukh, A.G.P. for respondent Nos. 1 to 3  
None for respondent no. 4 though served

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**CORAM : S.S. SHINDE AND**  
**SANGITRAO S. PATIL, JJ.**

**JUDGMENT RESERVED ON : 2<sup>nd</sup> AUGUST, 2016**  
**JUDGMENT PRONOUNCED ON : 4<sup>th</sup> AUGUST, 2016**

**JUDGMENT (PER : SANGITRAO S. PATIL, J.) :**

Rule. Rule made returnable forthwith. With consent of the learned counsel for the petitioner and the learned A.G.P., heard finally.

2. Petitioner is working as Associate Professor with respondent No. 4 College. The petitioner has claimed benefit of Note 6, Appendix I of the Government Resolution dated 12<sup>th</sup> August, 2009, which reads as under :-

**"Note 6** – In case where a senior teacher promoted to a higher post before the 1<sup>st</sup> day of January, 2006 draws less pay in the revised pay structure than his junior who is promoted to the higher post on or after the 1<sup>st</sup> day of January, 2006, the pay in the pay band of such senior teacher should be stepped up to an amount equal to the pay in pay band as fixed for his junior in that higher post. The stepping up should be done with effect from the date of promotion of the junior teacher subject to the fulfillment of the following conditions :-

(i) both the junior and the senior teacher should belong to the same cadre and the posts in which they have been promoted should be identical in the same cadre.

(ii) the pre-revised scale of pay and revised Pay Band and Academic Grade Pay of the lower and higher posts in which they are entitled to draw pay should be

identical.

(iii) the senior teacher at the time of promotion should have been drawing equal or more pay than the junior.

(iv) the anomaly should be directly as a result of the application of the provision of these rules or any other rules or order regulating pay fixation on such promotion in the revised pay structure."

3. The learned counsel for the petitioner submits that the provisions of Note No. 6 are squarely applicable to the case of the petitioner. The juniors of the petitioner are getting more pay than that of the petitioner only because the juniors obtained Ph.D. degrees after 1<sup>st</sup> January, 2006. This anomaly has to be removed by stepping up the pay of the petitioner to make him equivalent to the pay of his juniors and the petitioner should be paid arrears of pay with interest at the rate of Rs.18% per annum. The learned counsel for the petitioner further submits that the similar issue has been decided by the Division Bench of this Court in the case of ***Sudamrao Keshawrao Aher & others Vs. The State of Maharashtra & others, 2014 (1) ALL MR 697*** and the persons similarly situated with the present

petitioner have been given benefit of Note 6 of the Government Resolution dated 12<sup>th</sup> August, 2009, for stepping up of their pay with his juniors. The said judgment has been confirmed by the Hon'ble Supreme Court in Petitions for Special Leave to Appeal (C) Nos. 15053-15056/2015 vide order dated 17.11.2015. As such, the said issue is no more *res integra*. Therefore, he claims that the petitioner should be granted the same relief by allowing the present writ petition.

4. Respondent No. 3 filed affidavit-in-reply for himself and on behalf of respondent Nos. 1 and 2 to opposed the claims of the petitioner. Respondent no. 4 was duly served with the notice of the writ petition, but none appeared for him.

5. The learned Assistant Government Pleader appearing for respondent Nos. 1 to 3 could not controvert the contentions of the petitioner that consequent upon implementation of the Sixth Pay Commission recommendations, the persons who are junior to the petitioner are getting more pay than that of the petitioner and that the petitioner is entitled to get his respective pay stepped up. He further could not

show that the judgment in the case of **Sudamrao Keshawrao Aher** (supra) is not applicable to the facts of the present petition.

6. We have considered the facts of the present petition, arguments of the learned counsel for the petitioner and that of the learned Assistant Government Pleader, the documents produced on record and the judgment in the case of **Sudamrao Keshawrao Aher** (supra). We are satisfied that the ratio laid down in the case of **Sudamrao Keshawrao Aher** (supra) is fully applicable to the facts of the present petition.

7. In the above circumstances, we do not find any impediment in accepting the claim of the petitioner for stepping up of his respective pay to bring him at par with the pay of his juniors fixed as per the recommendations of the Sixth Pay Commission with effect from 1<sup>st</sup> January, 2006.

8. In the result, we pass the following order :-

(i) The writ petition is allowed.

- (ii) We direct the respondents to step up the pay of the petitioner to bring it at par with the pay of his juniors, compute the amount payable to the petitioner towards pay/pension in accordance with the judgment and order passed by this Court in the case of ***Sudamrao Keshawrao Aher & others Vs. The State of Maharashtra & others*** (supra) and release the said amount to them, as expeditiously as possible and preferably within a period of six months from today.
- (iii) Rule is made absolute in the aforesaid terms.
- (iv) The parties are left to bear their own costs.

**[SANGITRAO S. PATIL]**  
**JUDGE**

**[S.S. SHINDE]**  
**JUDGE**